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APPLICATION NO.	FILING	DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/634,442	0/634,442 08/05/2003		Neil G. Sellars	98-40145-US-C	98-40145-US-C 8282	
7:	590	02/08/2005		EXAM	IINER	
Louis M. Heid	delberger		AHMAD, NASSER			
Reed Smith LL	P					
2500 One Liber	rty Place	ART UNIT	PAPER NUMBER			
1650 Market St	reet	1772				

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Application (No.   Application (No.   10634,442   SELLARS, NEIL G.								
## Deficie Action Summary  ## Description  ## Characteristics of this communication appears on the cover sheet with the correspondence address  ## Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM  ## THE MAILING DATE OF THIS COMMUNICATION.  Extensions of trow may be available under the provisions of 3° CFR 1.136(a), in no event, however, may a reply be firstly field.  ## If the period for realy pice available under the provisions of 3° CFR 1.136(a), in no event, however, may a reply be firstly field.  ## If the period for realy is a pocified above, the renarismun stabulary priods will apply and will capital SX (b) MONTHS from the mailing date of the communication for the communication for the communication of the communication and prior realy is a pocified above, the provisions after the mailing date of this communication, even if thready filled, may reduce any search of the communication and prior to the search of the sea		Application No.	Applicant(s)					
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 37 CPR 1.15(6). In no event, however, may a reply be timely filed other SIX (6) MONTHS from the mailing date of this communication.  If NO provided for may be available under the provision of 37 CPR 1.15(6). In no event, however, may a reply be timely filed other SIX (6) MONTHS from the mailing date of this communication.  If NO provided or the provision of the communication of the provision of t		ears on the cover sheet with the c	orrespondence address					
1) Responsive to communication(s) filed on @5 August 2003.  2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☐ Claim(s)	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply</li> <li>If NO period for reply is specified above, the maximum statutory period w</li> <li>Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing</li> </ul>	36(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) day fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).					
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Page 2

Application/Control Number: 10/634,442

Art Unit: 1772

## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-48, drawn to a device for labeling, classified in class 428, subclass 40.1.
  - Claims 49-97, drawn to a container with label, classified in class 40, subclass 638.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and Group II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as coaster for beverage can and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Application/Control Number: 10/634,442

Art Unit: 1772

- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. A telephone call was made to Louis Heidelberger on February 3, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 10/634,442 Page 4

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad February 6, 2005.